

April 21, 1999

Ms. Sabrina Montes  
Office of Trade and Economic Analysis  
International Trade Administration  
U.S. Department of Commerce  
HCHB Stop 2815  
14<sup>th</sup> Street & Constitution Avenue  
Washington, DC 20230

RE: SIIA Comments on APEC Electronic Commerce Steering Group Work Plan

Dear Ms. Montes:

Attached please find the comments of the Software & Information Industry Association (SIIA) on the APEC Electronic Commerce Steering Group Work Plan as per your notice in the April 7, 1999 Federal Register.

The SIIA was formed by the January 1, 1999 merger of the Software Publishers Association and the Information Industry Association. We appreciate the opportunity to provide our insight as the administration considers the work on electronic commerce of international organizations.

In addition to our formal comments, I have also included a copy of *Code, Content and Commerce: SIIA's Vision of the Digital Future*. This publication provides a comprehensive overview of issues associated with the development of electronic commerce. Originally published in 1998 and updated for 1999, *Code, Content and Commerce* provides the perspective of software and content publishers on a host of e-commerce issues for policymakers, analysts and industry observers.

If you have any questions, please do not hesitate to contact me at 202-452-1600, extension 310 or Lauren Hall of my staff at extension 313.

Thank you.

Sincerely,



Ken Wasch  
President

Enclosures (2)

## **Comments of the Software & Information Industry Association**

The Software & Information Industry Association is pleased to provide the following comments on the Work Plan of the APEC Electronic Commerce Steering Group.

The Software & Information Industry Association (SIIA) was formed by the January 1, 1999 merger of the Software Publishers Association and Information Industry Association. The SIIA is the largest trade association in the world for code and content companies competing in the digital age. Our member companies develop products for the education, home, consumer, corporate, enterprise and Internet markets, representing all aspects of this growing industry. More importantly, our member companies are involved in virtually every aspect of electronic commerce, from providing the products that make e-commerce possible to leveraging e-commerce to market, sell, support and develop their product lines.

Further development of electronic commerce is a key objective for SIIA. In pursuing this goal, SIIA has developed a series of domestic and international programs that help companies enter and succeed in the market. For example, our advocacy efforts include participation in state, domestic and international e-commerce fora to ensure that industry interests are represented. Our Internet and Global Market Divisions have developed a number of white papers that cover topics as diverse as electronic volume licenses to analyzing the e-commerce value chain. The newly formed Online Content Committee is examining successful business models for online content providers, while the Internet Marketing and Business Model Committee is looking at the broader issues of successful online advertising models. And the Electronic Commerce Web Resource (ECWR) is a critical resource for companies expanding their e-commerce operations. The ECWR is an online collection of the relevant law in more than 30 countries and all 50 U.S. states; for companies seeking to expand their e-commerce business, the ECWR provides companies quick and easy way to learn about the legal environment for taxation, encryption, privacy, consumer protection, digital signatures and other topics. Our efforts are both strategic and tactical, ensuring that our member companies have access to the resources that they need to succeed and that policymakers require to participate in the complex policy discussions surrounding electronic commerce.

### **General Observations**

SIIA welcomes initiatives to identify and resolve barriers to the continued growth of electronic commerce. SIIA strongly believes that industry must play a leadership role in any discussions regarding electronic commerce. Given the potential of the electronic marketplace, industry has an inherent interest in working with policymakers to ensure that such barriers are effectively overcome. Industry participation in policy discussions ensures that policymakers have access to the most relevant, timely information and technological expertise, guarding against the likelihood that inappropriate or ineffective initiatives are pursued. We appreciate the recognition in the work plan of the important role of industry in future discussions.

## Specific Observations

### *Paragraph 2*

SIIA suggests that an additional bullet be added under paragraph 2 following the existing four bullets. The fifth bullet should read:

- Providing a strong, yet balanced, legal foundation that provides adequate incentives for the creation, development and dissemination of electronic commerce technology.

Addition of this bullet clarifies each governments' role in ensuring that its intellectual property protection, in terms of laws and enforcement, effectively promote the creation, development, and dissemination of new, innovative technologies and the rapid transfer of emerging advanced information, communication and other technologies. As the economic growth of all nations becomes increasingly dependent on the ability to create and harness advanced technologies, the failure to provide adequate incentives to a nation's innovators, entrepreneurs and creators through strong, yet balanced, intellectual property protection could significantly impede economic growth and lead to new technological access barriers against those nations where lack of effective intellectual property enforcement is suspected.

### *Paragraph 2, Bullet 2*

SIIA appreciates the emphasis in the work plan on developing a trustworthy and secure environment online. Our member companies recognize that unless consumers are confident that their transactions are secure and that their personal information is only used in ways acceptable to them, electronic commerce will not reach its full potential.

SIIA encourages APEC to carefully consider the important role that encryption technologies play in providing online security. Encryption is used to facilitate online sales, protect electronic transactions, secure intellectual property and ensure the security of corporate information and priceless trade secrets. Encryption plays a vital role for many of our member companies. For software and information companies, robust encryption technologies – and the evolution of these capabilities – are critical for their continued success. APEC member countries should eliminate restrictions on the use of encryption to help promote online security.

SIIA welcomes the recognition of the importance of self-regulation in *Paragraph 4* and encourages APEC to look to industry initiatives as the most appropriate response to questions of security, privacy and consumer protection.

SIIA strongly encourages APEC member countries to look closely at the success of self-regulatory efforts. SIIA believes that industry initiatives are far more likely to be effective than regulatory approaches because of the very global nature of the Internet. Allowing companies to adopt approaches to privacy that are appropriate for both the enterprise and its consumers ensures that online companies can effectively respond to cultural, social and legal differences across member countries.

Businesses can and do respond more quickly than can government regulation. While regulation may help foster confidence among consumers, industry-led initiatives can be more effective because companies can adapt more quickly, more efficiently and more proactively than the regulatory process. Further, online companies know their customers and their preferences and, in

a competitive environment, are better poised to develop consumer policies that directly address their consumers' needs.

In addition, there are strong marketplace incentives for companies to adopt self-regulation. The electronic marketplace changes quickly and is highly competitive. In an environment where geographic location and physical facilities are unimportant, consumers can quickly and easily compare prices, site policies and product offerings. Companies seeking to compete on the Internet must be responsive to their consumers immediately and effectively to survive.

### *Paragraph 3*

Paragraph 3 should be expanded upon slightly to ensure that barriers are not created through the lack of sufficient intellectual property protection. At present, the paragraph suggests that governments ensure that technologies are available, accessible, affordable, and interoperable, all of which are laudable goals. At the same time, however, these goals should be met by industry, not through government regulation. Such regulation would likely lead to compulsory licensing of proprietary technology and other artificial mechanisms that lessen the incentives for entities to create and disseminate the very technologies that the regulations seek to make accessible. The phrase, "while respecting the intellectual property rights of others" should be added to the end of the paragraph to clarify the intent of the Steering Group.

### *Paragraph 6, Bullet 2*

SIIA welcomes the input of APEC in undertaking efforts to develop effective measures and indicators on electronic commerce. As electronic commerce continues to grow and play an increasingly important role in national economies, it is imperative that both industry and governments have access to reliable statistical information regarding the medium. SIIA understands that similar work is ongoing in the Organization for Economic Cooperation and Development (OECD) and encourages the two organizations to work together, and with others, to ensure that comparable approaches are developed.

### *Paragraph 7*

SIIA believes that the creation of a "Virtual Electronic Commerce/Multimedia Resource Network" would be a valuable tool for policymakers considering the legal and regulatory questions facing the electronic commerce community. Such an effort would provide policymakers with access to the widely varying resources available in member countries, providing the best information that a country can offer.

SIIA encourages APEC to make these resources available, as appropriate, to the business community as well. As APEC works to encourage more companies to adopt electronic commerce and reaches out to small and medium-sized businesses, these resources could also help companies begin or expand their online activities.

As mentioned above, SIIA created such a resource for its member companies and subscribers several years ago. The SIIA Electronic Commerce Web Resource (ECWR) provides detailed information on the legal environment for electronic commerce in more than 30 countries and all 50 U.S. states. The ECWR also provides links to further resources in each country to ensure that

ECWR users have access to the most up-to-date information available. As APEC develops its own network, we look forward to sharing our resources and expertise as needed.

### **Conclusion**

SIIA welcomes the opportunity to work with the U.S. Government, APEC and other relevant organizations. Because of the inherently international nature of the Internet, the ongoing cooperation between national governments, international organizations and industry groups is critical. Without an open dialogue on these important issues, we risk harming the very market we seek to develop.